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HUMAN RIGHTS IN THE NEW WORLD ORDER

Jack Donnelly

A climate of optimism pervades discussions of human rights today. The end of the Cold War, the wave of democratizations and liberalizations in the Third World, and the collapse of rights-abusive regimes in Europe and the Soviet Union have contributed to a sense that human rights will be better protected in the new (and still emerging) world order than in the old.

Much of this optimism, however well-intentioned, is unjustified. The demise of old rights-abusive regimes will not necessarily lead to the creation of new rights-protective policies and regimes. Although some countries, such as Argentina and Czechoslovakia, are likely to make successful transitions to democracy, many will fall back into dictatorship, as demonstrated by the recent coups in Haiti, Togo, and Algeria. Many other countries, such as Guatemala and the Philippines, today enjoy governments that are generally less oppressive than their predecessors, but still far short of consistently protecting the full range of internationally recognized human rights. In addition, new threats to human rights are emerging, most notably increased ethnic violence and the suffering caused by economic liberalization.

The end of the Cold War has removed the principal U.S. rationale for supporting repressive regimes, and the demise of the Soviet Union has eliminated the other major postwar pillar of support for such regimes. Here too, though, we should be wary of excessive optimism. An international atmosphere that is less hospitable to repressive regimes does not mean that these regimes will come tumbling down in fast order, let alone that new policies that are more protective and respectful of human rights will take hold.

Ours may be "a new world of hope," as President George Bush stated

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last year following the U.S. victory in the war against Iraq.¹ In the field of human rights, however, many of those hopes are unlikely to be realized. And the Bush administration bears some of the responsibility. Like its predecessors, it has failed to translate an abstract verbal commitment to human rights into a coherent human rights policy.² Beneath the fine sounding rhetoric, Bush has in practice combined extravagant vilification of the latest American enemy (Saddam Hussein having replaced Ayatollah Khomeini and the Soviets) with embarrassing docility toward reprehensible rulers of countries (such as China and Syria) that are perceived to be strategically significant and an inconsistent, ad hoc approach elsewhere.

In the post-Cold War world, the United States faces the challenge of developing a realistic, committed, morally sound international human rights policy that is truly integrated with the rest of U.S. foreign policy. Bush's smug self-satisfaction over "winning" the Cold War represents a tragic failure to rise to that challenge. As a result, we risk missing a historic opportunity for progressive change in international human rights policies.

The Cold War Baseline

The Cold War era was a paradox with respect to human rights. Although a time of pervasive anti-humanitarian interventions by both superpowers, it was also the period in which human rights first became an established subject of international relations.³

Before World War II, human rights were not considered a legitimate subject for international action. How states treated their own nationals in their own territory was considered a prerogative of national sovereignty and thus the business of no one else. Human rights were not even mentioned in the Covenant of the League of Nations, and in the interwar period human rights practices of states were officially discussed only in a few international forums, such as the International Labor Organization.

Postwar reflection on the horrors of the Holocaust and the shameful lack of an international response led to significant changes. The Nuremberg War Crimes Trials prosecuted individuals on the unprecedented charge of crimes against humanity. The United Nations Charter explicitly listed human rights as a principal concern of the new organization. In 1946, the U.N. Commission on Human Rights was established, and in 1948, the U.N. General Assembly adopted the Universal Declaration of Human Rights. The International Human Rights Covenants, which further devel-

oped and sought to give binding legal force to the rights enumerated in the Universal Declaration, were completed in 1966 and entered into force in 1976.

The Universal Declaration of Human Rights treats civil and political rights and economic, social, and cultural rights in a single document without categorical distinctions. The “interdependence and indivisibility” of all human rights was, and remains, a much repeated theme in international discussions. Nonetheless, the Cold War both revealed and helped to create profound fissures in this verbal consensus. The United States criticized violations of civil and political rights in Soviet-bloc countries while condoning, or even encouraging, violations of the same rights in “friendly” countries. The Soviet Union emphasized the denial of economic, social, and cultural rights in the West, but systematically denigrated the importance of civil and political rights at home.

The universality of internationally recognized human rights was also challenged by the argument that there were “three worlds,” or three distinctive and valid conceptions of international human rights norms.⁴ The First World conception, it was argued, stressed civil and political rights and the right to property.⁵ The Second World conception treated economic, social, and cultural rights as an overriding priority and a prerequisite to the enjoyment of civil and political rights. The Third World conception also emphasized economic, social, and cultural rights, along with the right to self-determination and the overriding importance of the struggle for development.

Nonetheless, most states continued to insist that all human rights were “interdependent and indivisible” and valid across cultural and political divisions. A broad, although shallow, international normative consensus thus developed on the full list of rights in the Universal Declaration. The Universal Declaration came to be recognized, in theory if not in practice, as providing a single comprehensive system of guarantees, rather than a list of rights from which states might choose as they saw fit. In the 1950s and 1960s, this verbal consensus had little or no discernible impact on policy. Altering the terms of debate, though, marked a first step toward altering practice.

In 1970, the U.N. Commission on Human Rights was authorized to conduct confidential investigations of systematic human rights violations. Nearly 40 countries have been subjected to such reviews in the ensuing two decades. The commission also developed largely depoliticized monitoring programs on disappearances, torture, and arbitrary and summary executions.⁶ In addition, over the past 30 years a number of human

rights treaties have been adopted that require parties to submit periodic reports to independent monitoring committees.⁷

The strongest “enforcement” power available to any of these bodies, however, was (and remains) adopting a critical public resolution or report. Most of the treaty-based committees do not even have this much power; they are largely limited to receiving and asking questions concerning the reports submitted by states. These are monitoring—not enforcement—procedures, which aim to bring informed international public opinion to bear. Human rights norms have been internationalized. Their implementation and enforcement, however, remain largely national.

The regional record is more varied. The regional enforcement regime covering the 23 (primarily West European) members of the Council of Europe stands at one end of the spectrum. The European Commission of Human Rights investigates complaints from individuals and states, and the European Court of Human Rights can, and does, issue binding legal judgments, with which states almost invariably comply. At the other end of the spectrum, there are still no intergovernmental regional human rights organizations in Asia and the Middle East. The Americas and Africa lie between these extremes.

The Inter-American Commission of Human Rights, an organ of the Organization of American States (OAS), has significant investigatory powers and its reports receive considerable regional and international publicity. For example, its reports on Chile and Argentina in the 1970s were major sources of information for international efforts against the military regimes in these countries. The Inter-American Commission, however, has no real enforcement powers. The Inter-American Court of Human Rights may issue legally binding judgments, but to date it has handed down decisions on only two cases (one dealing with a disappearance in Honduras, the other with military violence against two journalists in Peru).

The African regional regime is significantly weaker. The African Commission on Human and Peoples’ Rights has very modest investigatory powers and no enforcement powers of any sort. In fact, it even lacks the resources to disseminate its reports. In addition, there is no regional human rights court.⁸

In 1973, the “Helsinki process” of the Conference on Security and Cooperation in Europe (CSCE) was launched with the initial participation of 35 North American and European countries. It has since become a significant quasi-regional human rights regime that operates among 48 European and North American countries. Its importance is attested to by the strong desires of many of the new governments of Central and Eastern

Europe to deepen what is now called the human dimension of the CSCE. New investigation and conciliation procedures were established at the 1989 Vienna review meeting and important new statements of norms were issued in Copenhagen and Paris in 1990. Nonetheless, the Helsinki human rights process still lacks enforcement powers.

In addition to the creation of various multilateral human rights bodies, the last two decades of the Cold War era also saw the elevation of the significance of human rights in bilateral foreign policy. In 1973, the U.S. Congress called for, and in 1975 legislatively mandated, a link between human rights and foreign aid. In 1979, the Netherlands explicitly incorporated human rights into its foreign policy, and in the 1980s many other countries followed suit. One can point to few cases in which any state, large or small, has been willing to bear a significant foreign policy cost in pursuit of human rights objectives.⁹ Nonetheless, tougher talk on human rights, backed by an occasional halt in foreign aid, was a major change.

Another important development during the Cold War was the rise to prominence of human rights nongovernmental organizations (NGOs). Amnesty International, which was founded in 1961 and received the Nobel Peace Prize in 1977, is the best known such organization. In the United States, Human Rights Watch and the Lawyers Committee for International Human Rights have been especially active lobbyists for international human rights. These two organizations regularly document and publicize human rights violations, testify before congressional committees, lobby legislators and staff members working on human rights issues, do extensive work with the media, and issue an annual critique of the State Department's country reports on human rights. Other human rights NGOs engage in similar efforts to influence policy by acquiring and disseminating information and organizing public pressure. Again, though, their activities are limited to international monitoring, not implementation or enforcement, of human rights.

In summary, we can say that during the Cold War states lost their traditional immunity from public international scrutiny of their human rights practices. A fairly extensive system of formal and informal international human rights monitoring—by international and regional organizations, NGOs, and other states—was established. International action, however, was modest in scope and impact. Except in Europe, no procedures were established to provide real international enforcement of internationally recognized human rights.

Much of the new world order rhetoric suggests that the 1990s will see substantial strengthening of international human rights guarantees. It is

very likely, however, that the end of the Cold War will have fewer positive consequences for international human rights policies than many people suspect, and that the depth and permanence of recent “democratizations” have often been seriously exaggerated.

The Impact of the End of the Cold War

Both bipolarity and ideological struggle, defining features of the Cold War international order, have largely disappeared. While this has indeed helped to create an improved climate for the protection of human rights, significant limits to further progress remain.

We need only say “Guatemala, 1954” or “Czechoslovakia, 1968” to recall the major role of the superpowers in reversing progress toward the establishment of rights-protective regimes in their Cold War spheres of influence. Marcos in the Philippines, Duvalier in Haiti, Park in South Korea, the Shah in Iran, Pinochet in Chile, Stroessner in Paraguay, and Mobutu in Zaire are only some of the more prominent dictators who benefited from U.S. support. The Soviet record was comparably appalling. In addition to forcibly imposing repressive communist regimes in Central and Eastern Europe, the Soviets were the principal backers of the Mengistu regime in Ethiopia, one of the most barbaric Third World regimes of the past two decades, as well as Afghanistan’s vicious Karmal and Najibullah governments.

Economic decline and internal political upheavals have largely eliminated Soviet (now Russian) incentives and capabilities for such behavior. The United States still retains an unrivaled capability to project immense conventional power at a great distance, as the Gulf War vividly illustrated. The end of the Cold War, however, has eliminated a central U.S. justification for supporting repressive regimes.

Whatever the root causes of U.S. foreign policy, most U.S. anti-humanitarian interventions during the Cold War were fueled by a substantial element of anticommunism, and few could have been sold to Congress or the public without it. During the Cold War, most unsavory dictators could acquire, or at least maintain, American support by playing on anticommunism. This is simply no longer the case. The post-Cold War international environment for human rights thus should be significantly improved.

U.S. intervention in the Third World, of course, predated the Cold War and will undoubtedly persist because of strategic, economic, and ideological interests that continue to drive U.S. foreign policy. For example, the

low level of official U.S. concern with human rights violations in Indonesia (including, but by no means limited to, East Timor) probably owes much to Indonesia's strategic location and oil. "Elections" and "free markets" may even be emerging as new ideological bases for policies destructive of human rights. Nonetheless, without the overarching appeal of anticommunism, U.S. officials will find it much more difficult to muster domestic support for repressive foreign regimes.

We should not underestimate the remaining problems. For example, U.S. pressure on the Andean countries to militarize their war on drugs may create either disaffection or an exalted sense of power among the military, either of which may lead the armed forces to once again assert a predominant role in politics. The attempted coup in 1984 by Bolivia's Leopards, an elite anti-drug squad created and funded by Washington, is only the most dramatic example of this U.S.-created threat to human rights in the Andean region.

Nonetheless, the drug rationale for intervention has relatively limited application. Few countries are perceived to have real strategic significance today, a point that is becoming clearer as anticommunist paranoia subsides. And economic interests, other than oil, have played a minor role in U.S. foreign policy toward the Third World since the mid-1970s. We should thus expect substantially reduced international support for repressive regimes.

For example, the end of the Cold War helps to explain why El Salvador's and Guatemala's military, under some U.S. pressure, have not only reduced the level of political violence but been more forthcoming in recent negotiations to end long-standing guerrilla wars. The Bush administration's significant reduction of aid to Kenya, perhaps the most favored African country during the Reagan years, also suggests real, if limited, progress. Washington can no longer systematically ignore human rights in favor of ideological objectives. But neither the Bush administration nor Congress is willing to expend substantial political or financial capital on behalf of international human rights. Consider, for example, Bush's continued support for China, one of the world's few remaining Stalinist-style totalitarian dictatorships.

A similar picture of limited progress is apparent if we turn from the demise of Cold War ideological rivalry to recent shifts in the international balance of power. It is difficult today to characterize the current distribution of international political power.¹⁰ As a result, international political processes and outcomes vary dramatically from issue to issue. Although the end of U.S. and Soviet superpower rivalry may create new opportuni-

ties for progressive international action, it also means that we cannot automatically generalize from one issue area to another. In particular, we must avoid jumping to the conclusion that the significant changes of late in international economic relations portend comparable changes in international human rights policies.

Some developed states are indeed increasingly willing to relinquish significant elements of economic sovereignty. We see this not only in the increasing globalization of production, but also in the heightened interest in formal multilateral organizations (most notably in the European Community) as well as in less formal modes of international cooperation, such as the annual economic summits of the Group of Seven (G-7) industrialized countries. In addition, Third World states are increasingly surrendering economic sovereignty through IMF-imposed structural adjustment packages (although often out of dire necessity, rather than genuine desire).

More complex and less state-centric patterns of order and cooperation, based on relatively deep conceptions of international interdependence, are also emerging in some noneconomic issue areas. Consider, for example, the surprisingly rapid success in regulating ozone-depleting emissions through the 1985 Vienna Convention and the 1987 Montreal Protocol. In security relations, however, perceived interdependence has not penetrated very far, especially in U.S. policy. In fact, sovereignty remains at the core of Bush's vision of the new world order, which, he has been at pains to note, "does not mean surrendering our national sovereignty."¹¹

A state-centric, sovereignty-based conception of international order also remains the norm for international human rights. Most states still jealously guard their sovereign prerogatives with respect to human rights. Even in Europe, the relatively strong regional human rights system pales in comparison to the restrictions on state sovereignty achieved through regional economic institutions.

There has been much talk recently of an enhanced role for the United Nations in international peace and security, symbolized by the Security Council summit at the end of January. U.N. mediation efforts in Central America suggest that there may be the possibility for significant positive spillovers into human rights. Recent interest in multilateral monitoring of elections may signify a possible enhanced U.N. role in the final stages of phasing out repressive regimes. Nonetheless, in the core areas of monitoring and implementation, recent events at the United Nations suggest that simply maintaining the current (very modest) levels of activity in the area of human rights may be the best that can be hoped for.

For example, in 1990 the U.N. Commission on Human Rights failed

to adopt an embarrassingly mild draft resolution on human rights in China that did not even explicitly condemn the 1989 massacre in Beijing. Japan was the only Asian country, Swaziland the only African country, and Panama the only Latin American country to vote for the resolution. Furthermore, the Third World's Group of 77 tried to further weaken and politicize the commission's already modest human rights monitoring efforts. It also tried to impose restrictions on the activities of human rights NGOs because of their independence from political control. Although these efforts ultimately failed, they suggest that new regimes can be as reluctant to allow strong international monitoring of national human rights practices as their authoritarian predecessors.

The regional picture is again more varied. The inter-American system has shown some real progress. The ultimate impact of the OAS's moral, political, and economic embargo on Haiti remains unclear, as negotiations continue on the return or replacement of deposed president Jean-Bertrand Aristide. Nonetheless, the relatively forceful and united hemispheric response to the September coup is a heartening change from the early 1980s, when the OAS General Assembly refused even to comment on the excesses of the military regimes in Chile and Argentina. It is particularly significant because these same Latin American governments have opposed more forceful U.N. action on behalf of human rights. So far, though, the inter-American experience remains more an exception than an emerging new norm. Regional human rights procedures in Africa, Asia, and the Middle East remain weak or nonexistent.

The inherent sensitivity of human rights issues helps to explain the weakness of international human rights procedures and the persistently strong commitment to sovereignty. For example, the United States refuses to ratify the International Human Rights Covenants and almost all other international human rights treaties, although in most particulars American law and practice already conform to their requirements. But political sensitivity does not provide the full explanation.

International human rights policies rest largely on a perceived moral interdependence. By contrast, material interdependence underlies most (noncoercive) economic, environmental, or even security cooperation. These differing bases for cooperation are likely to lead to significantly different international political processes.

Moral interdependence is largely intangible. The international harm caused by a foreign state violating the human rights of its own nationals is a moral harm. Disgust, discomfort, or outrage is the result, rather than

a loss of income, a deterioration in one's quality of life, or a reduction in perceived security. Most states, though, are unwilling to pay very much to act on or assuage their moral sensibilities. This does not mean that they do not see themselves as morally interdependent, any more than the refusal of many individuals to pay a large price to fulfill their moral responsibilities toward strangers (the homeless, for instance) means that private morality does not exist. It does, however, help to explain the low status that human rights have on the foreign policy agendas of most states.

But even if states did choose to give higher priority to international human rights, there are unusually high hurdles to clear in implementing international human rights policies. Retaliatory enforcement of international norms is inherently problematic. Moral suasion, which responds directly to the nature of the international offense, is notoriously weak. Any other type of retaliation, however, must be imported from another issue area, such as the economy, increasing both the cost of responding and the risk of escalating the dispute. Furthermore, because the means are not clearly and directly tied to the violation, their legitimacy may appear questionable.

The fact that it is easier for outside actors to undermine than to enhance human rights further increases the difficulty of international action. Although massive outside military force may ultimately fail to maintain repressive rule, foreign states may still have enormous power in the short and medium run to tip the political balance of power in favor of the forces of repression. Yet foreign intervention has rarely been central in establishing a strong and stable rights-protective regime. Even Japan and West Germany, in some ways exceptions, confirm the rule: change came only after total defeat in a devastating war that completely discredited the prior regime. Rights-protective regimes are almost always established by domestic, not international, political forces.

Taken together, these observations on the character of power and interdependence in the post-Cold War world suggest that international progress in human rights remains substantially constrained by deep structural forces. The impediments to establishing effective international human rights policies rooted in an international system of sovereign states remain essentially unchanged in the post-Cold War world.

The fate of human rights therefore will rest largely on national, not international, politics. Foreign policy initiatives must focus on responding constructively to national political processes, and our attention needs to shift now to some of the more prominent trends in national human rights practices.

Creating Rights-Protective Regimes

Although the collapse of authoritarian and totalitarian regimes over the past decade has meant major human rights progress, we still face an immense gap between getting rid of old forms of human rights violations and establishing new rights-protective regimes.

Political changes have indeed been extensive and relatively deep in Latin America and Central and Eastern Europe, and somewhat more uneven in Asia. More recently, long entrenched authoritarian regimes in Africa have collapsed or been forced to liberalize. For example, in March 1991 Benin's Nicéphore Soglo became the first candidate in the history of mainland Africa to defeat an incumbent president in a democratic election. Even more dramatic was the decisive defeat last November of Kenneth Kaunda, Zambia's president during the first quarter-century of its independence.

Such changes have helped to deepen the relatively shallow Cold War normative consensus on the interdependence and indivisibility of all human rights. In Central and Eastern Europe, the so-called socialist conception of human rights lies in shambles. In many Third World countries, the old arguments that equated human rights with the struggle for self-determination and development have been rejected. And in most countries, human rights advocates have become relatively immune to the charge that they are advocates of inappropriate foreign ideologies.

Human rights arguments couched in terms of radical cultural relativism have little persuasive power today, either internally or internationally (although a few countries, most notably China and Cuba, are still trying to breathe life into them). The terms of debate have changed. The universality of the Universal Declaration of Human Rights and the International Human Rights Covenants is now the real starting point for discussion.

We must be careful, however, not to overestimate the extent to which international human rights ideas have penetrated national human rights practices. In particular, we must not confuse decreased tolerance for old forms of repressive rule with support for, let alone institutionalization of, rights-protective regimes.

Very roughly, we can distinguish three levels of political progress toward respect for internationally recognized human rights. "Liberalization" decreases human rights violations and opens up political space for at least some previously excluded groups. "Democratization," as I will use the term here, is the process of establishing a regime characterized by universal suffrage, responsible government, and relatively free and open political

participation.¹² As we shall see, though, democracy, thus understood, is no guarantee that all internationally recognized human rights will be protected. That requires what I will call a rights-protective regime, a political system that makes the protection of such rights a central element of its mission and justification, and which, through extensive, intense, and sustained effort, has considerable success in realizing this aspiration.

Many recent liberalizations have led to only modest progress in the area of human rights. In Africa in particular, the state of "democratic transitions" is often confusing and precarious. Since the spring of 1990, national conferences to negotiate the end of one-party and military regimes have been held in a number of countries, including Benin, the Congo, Gabon, Ghana, Niger, Mali, Togo, and Zaire. The results range from success in Benin to near total failure in Zaire. And many African countries, such as Guinea and Kenya, have not even reached this level of political opening. The results of multiparty elections in Africa have also been mixed. Benin and Zambia are still more the exceptions than the rule. More typical were the presidential, legislative, and municipal elections held in Côte d'Ivoire in late 1990. Although opposition parties were allowed to participate, the contests were marred by violence, fraud, and record levels of non-participation.

In many countries, semidemocratic liberalizations have not progressed to full democratization or the creation of rights-protective regimes. For example, the election of Vinicio Cerezo in December 1985 did lead to a major decline in the level of violence in Guatemala. Nonetheless, extrajudicial executions continued at a rate of over 100 a month during Cerezo's first year in office, and throughout his term, the military and its civilian allies remained largely outside of government control. His successor, Jorge Serrano (who won a runoff election for president in January 1991), did set up a commission on disappearances. He also obtained military support for peace talks with Guatemala's leftist guerillas. There is little evidence, though, that Serrano really governs the country. Moreover, opposition political activity remains a dangerous enterprise in Guatemala and killings have been on the rise again the past year.

Even in countries where all parts of the state apparatus have come under the control of freely and fairly elected civilian governments, human rights are not necessarily secure. Democracy assures only popular control over the makeup and direction of government. Genuinely democratic governments are not above using their power in ways that systematically violate, threaten, or fail to defend internationally recognized human rights. In the post-Cold War world two important types of human rights violations

in democratic regimes seem especially important: refusal to accept the limits on state power implied by human rights, and insufficient attention to economic and social human rights.

Machiavelli, among many others, devoted much attention to the problem of "how difficult it is for a people accustomed to live under a prince to preserve their liberty, should they by some accident acquire it."¹³ They are, he argues, like a wild beast that has been domesticated and then abruptly released. The confused and helpless creature quickly, and willingly, falls victim to the first person who will restore it to captivity.

Although Machiavelli's formulation is characteristically extreme, the problem is real. A people that has known only arbitrary rule or elite domination faces an immense problem of resocialization. The persistence of old rights-abusive ways of thinking and acting poses serious problems in establishing rights-protective regimes. For example, Czechoslovakia and Argentina probably do rightfully deserve the label of "new democracies." But even in such countries, there may be significant limits on the nature and extent of political transition.

Consider, for instance, the question of granting "impunity" (*impunidad*) to Argentina's military, which was responsible for the disappearance of at least 10,000 Argentines and the torture of many more in the 1970s and 1980s. In April 1985, prosecutions were launched against all nine members of Argentina's three military juntas and more than 100 other officers. But several military rebellions in the following years forced the government to halt most prosecutions and subsequently grant pardons to most of those who had been successfully prosecuted. In neighboring Uruguay and Chile, the new civilian governments have not even attempted to prosecute members of the military for human rights violations, deterred by the Argentine example and threats from their own armed forces. If the military is willing to otherwise exclude itself from politics and accept true civilian control, impunity, although profoundly unjust, may in some instances be the best course to follow. Nonetheless, it does raise serious concerns about the fate of human rights over the long run.

In Czechoslovakia, substantial progress has been made toward establishing a rights-protective regime. At the same time, as part of the process of coming to grips with the legacy of the communist past, a parliamentary commission has been charged with exposing informants for the old secret police, who may number as many as 150,000 people. Yet the commission operates without even the appearance of due process. The accused often are presumed guilty and not even allowed to see the "evidence" against them. Furthermore, an October 1991 law excludes from public office or

employment not only informers, but anyone who was a member of the national security forces, a party official at the district level or higher, a member of the People's Militia, or an activist in certain other state or party bodies.

There may be a certain poetic justice in treating informers to a bit of their own medicine, or denying people public opportunities on the basis of political associations that previously brought them special advantages. The desire for vengeance and the fear of communist resurgence are understandable. Nonetheless, Czechoslovakia's current government is still guilty of serious and troubling violations of human rights. Rights are being denied to people on the basis of past immoral — but not illegal — acts, or merely because they worked in or for core institutions of the old repressive regime. (By comparison, Argentina prosecuted and punished members of the old regime for particular acts — kidnapping, torture, and murder — that were well-established crimes in Argentina and in virtually all other states, and not for their political views, associations, or employment.)

Opportunists and morally repugnant individuals are still citizens and thus should have the same public opportunities as other citizens. Even if not a single innocent person were to be wrongly "exposed" as an informer, the Czechoslovak investigatory procedure remains profoundly unjust. All human beings, including the guilty, have the same human rights, which they are entitled to enjoy equally.¹⁴ It is (relatively) easy to seek redress for victims of injustice or to accept the burden of respecting the rights of those who appear to be innocent. To be solicitous of the rights of the guilty, the immoral, or the corrupt is a more difficult, sometimes even distasteful, task. It is, however, of perhaps even greater importance to the long-term security of human rights. In fact, the way that the guilty and despised are treated provides one of the best indications of the extent to which human rights ideas and practices have penetrated society and the political system.

Not only with respect to the "guilty," but more broadly as well, establishing a rights-protective regimes requires developing an appreciation of the profound limits that individual human rights impose on governments. Human rights can, and often do, impede the realization of other legitimate governmental aims. For example, investigations with procedural safeguards tend to be slow and cumbersome. Their purpose, however, is to protect individual rights, not increase the number of the guilty caught. Human rights are often "inefficient." But in a democratic society, they are of greatest importance precisely when considerations of efficiency would set aside individual rights and dignity in the name of some other social

good. Until this point is widely appreciated and accepted, human rights are likely to remain vulnerable.

Another important measure of progress toward establishing a rights-protective regime is the willingness of new governments to relinquish the extraordinary powers amassed by their predecessors. Post-colonial English-speaking Africa provides a sobering lesson. At independence, most countries simply retained the old British colonial legislation. In every case, pre-independence emergency powers were later abused. These countries probably would have progressed toward dictatorial rule even if emergency powers had not been conveniently on the books. Nonetheless, such powers eased, and probably hastened, the demise of these fragile experiments in democracy.

Today's new regimes in Africa and elsewhere are likely to face similar temptations. The risks are especially great if there is not a strong tradition of rule of law and respect for individual human rights, or if the new regime faces political or economic crisis. Such conditions are unfortunately the norm rather than the exception in the post-Cold War world.

Consider Boris Yeltsin, whose role in the final collapse of Soviet communism earned him immense popularity both at home and abroad. Has Yeltsin made the full transition from party boss to democrat? His tendency to rule by decree and through personal appointees makes this a legitimate question to which no definitive answer is yet possible. If he indeed has become a true democrat, does his conception of democracy not only recognize but stress the protection of minority rights? "Democracy" may simply mean tyranny of the majority—or, even worse, of a minority that claims to speak for the majority. Even where populist leaders do in fact speak for the people, human rights may remain threatened. Free popular participation in politics can in some instances lead to violations of human rights. Many people, both individually and in groups, want to use their political power to harm their enemies or to unfairly advantage themselves. Proto-fascist demagoguery is one natural outgrowth of populist politics in times of crisis.

Human rights are fundamentally nonmajoritarian. They are concerned with each, rather than all. They aim to protect each and every person, not just most, against majorities no less than minorities. In fact, in democratic societies, where the majority is relatively well-positioned to defend its own rights and interests, one of the most important functions of human rights is to constrain the majority.

Establishing a rights-protective regime also requires moving beyond reliance on individuals, no matter how astute or well-intentioned, to institu-

tionalizing new laws, practices, and attitudes. Unless the guarantee of human rights fairly quickly comes to rest on institutions rather than individuals, human rights remain at serious risk.

The dangers of relying on charismatic leaders unchecked by institutions are especially great in conditions of crisis and in a political environment in which divergences of opinion were previously dismissed as bad faith or evil intent. Unless political diversity is accepted as the norm—including a commitment to defend dissidents' rights to free expression and political participation—recent progress is unlikely to be consolidated and extended to the establishment of rights-protective regimes. And hard times make the tolerance of diversity especially difficult.

Poland presents a good illustration of this problem. In June 1991, President Lech Walesa asked for “special powers” for one year, including the right to regulate the economy by decree, and publicly called on the people to bypass the parliament. As the economic and political crisis persists, or worsens, Walesa may ultimately receive such powers. But placing extraordinary powers in the hands of a single person—especially one whose anticommunist credentials are impeccable but who has shown little commitment to a rights-protective liberal democracy—must make those concerned with human rights extremely nervous.

The fact that free elections sometimes bring rights-abusive governments to power poses special problems for U.S. foreign policy. Americans have tended to see relatively free multiparty elections as an effective guarantee of human rights. When a freely elected government is part of the human rights problem, either directly or because it does not completely control old or new forces of repression, the United States typically becomes myopic. For example, in El Salvador and Guatemala in the 1980s, elections were presented as the solution to human rights problems, but in fact produced only semidemocratic liberalization. Today, the Bush administration stresses the need for multiparty elections in Kenya and other African countries, but largely ignores the need for comprehensive changes in, for example, the legal system, police procedures, and access to education, the media, and the bureaucracy.

This reflects a profound and troubling arrogance in the American approach to international human rights. The United States often fails to realize that what works at home may not work, or work in the same way, elsewhere. Elections simply do not have the same meaning or anything like the same consequences in many other countries.

Americans also tend to believe that U.S. practice sets the international standard for respect for human rights. Many Americans thus believe and

perpetuate the quaint fiction that human rights problems exist only in places that must be reached by crossing large bodies of saltwater. Other countries have human rights problems. The United States, however, suffers from police brutality, civil rights problems, homelessness, or a health-care crisis—none of which are considered human rights violations. These problems are treated as being qualitatively different from torture, racial discrimination, or denials of the right to education, shelter, and health care in other countries. The very terms used obscure the fact of human rights violations in the United States.

This arrogance and self-denial help to explain why the United States continues to refuse to ratify the International Human Rights Covenants, along with most other international human rights treaties. The United States holds other countries to international human rights standards and procedures that it refuses to allow to be applied to itself. For example, the State Department prepares an annual report on the human rights practices of most other countries. The United States, however, refuses to submit reports on its own practices to international monitoring bodies. This is, at best, an embarrassment that is likely to make U.S. talk of a new world order of international cooperation in human rights appear to the rest of the world as hollow rhetoric.

Nationalism and Human Rights

The revival of nationalism in the wake of the collapse of the old order poses yet another threat to the establishment of rights-protective regimes. Internationally recognized human rights rest on the premise that all individuals, simply because they are human beings, have certain basic rights that they are entitled to enjoy equally. Aggressive, exclusive nationalism often challenges this central principle of political equality.

Although asserting national identity has often been an important element in struggles against outside domination, self-determination hardly guarantees that internationally recognized human rights will be protected. Nonetheless, because of its role in the overthrow of old forms of repression, nationalism has often been seen not only as a force with which to oppose oppressive ethnic domination, but as a guarantee of liberty and respect for human rights. This is another example of the gulf between ending old forms of abuse and establishing rights-protective regimes.

Throughout the former communist world, the demise of the old regimes has released long pent-up national animosities, most dramatically in Croatia. Some previously dominant groups, such as Serbs in Yugoslavia,

have responded by becoming even more aggressive and overbearing. Others, such as Russians residing outside of Russia, now fear nationalist retribution. Some previously subordinate groups, such as Slovaks in Czechoslovakia, seem as concerned with addressing old ethnic grievances as with establishing a new democratic order. Many other ethnic groups remain subordinated, with their interests still ignored (e.g., ethnic Hungarians in Czechoslovakia) or actively under attack (e.g., ethnic Turks in Bulgaria). Still other minorities have simply seen new ethnic oppressors replace the old. And the human rights problems posed by rising nationalism are likely to be at least as severe in sub-Saharan Africa, where many countries have ethnically diverse populations with a strong sense of group identity and loyalty.

Especially in conditions of economic scarcity, where an expanding supply of goods and services cannot be used to help defuse intergroup rivalries, there is a relatively high probability that communal competition will lead to ethnic conflict, and in some cases violence. Rapid economic growth allows some grievances to be addressed by directing a greater share of new resources to disadvantaged groups. In times of scarcity, however, especially in poor countries, politics tends to turn into a zero-sum contest for shares of an inadequate pie.

Separatism has been a solution of sorts in parts of the former Soviet Union and Yugoslavia. Balkanization, though, can create or exacerbate economic, political, and human rights problems. There were good (although perhaps not sufficient) reasons for creating a multiethnic Yugoslavia after World War I. Much the same is true of Czechoslovakia, which is under significant pressure from Slovak nationalists. And the likely costs of fragmentation are even greater in much of Africa, where the problems of political transition and economic development are severe enough already without opening up the possibility of years, even decades, of nationalistic tumult and the creation of new, and even more feeble, states.

Nonetheless, separatist demands for self-determination must be taken seriously not only in cases where dominant nationalities are oppressive, but even in some instances where they are not. Both internally and internationally, we face a genuine dilemma. The next several years are likely to see a succession of crises, many of which will be resolved, after great financial, political, and human cost, to the satisfaction of no one.

Sudan presents a particularly discouraging example of long-standing ethnic conflict that in the past decade has been overlaid by religious fundamentalism (which raises additional, but in many ways analogous, human rights problems). When Sudan became independent in 1956, it was already

embroiled in a civil war between the north, which controlled the government and was populated primarily by Arabized Muslims, and the largely black, Christian, and animist south (which itself was divided between the dominant Dinka and a number of smaller ethnic groups). A half-million people died before a regional autonomy agreement finally restored peace in 1972. The institution of *sharia* (Islamic law) in 1983 touched off a new round of civil war, which has intensified since the June 1989 military coup by fundamentalist Muslim officers.

Independent political parties, newspapers, trade unions, and professional associations have been banned in Sudan, and the opposition has been roughly repressed. Women's rights have been eliminated. Torture has for the first time become a regular technique of repression. Disappearances, into clandestine "ghost houses," are another new weapon in the government's arsenal.

Drought and famine, and their political manipulation by both sides, have turned a bad situation into a disaster. The government regularly bombs civilian targets in the south, including food relief centers, and has prevented food aid from entering rebel-controlled regions. The rebels for their part attack food shipments to government-held towns. Since 1988, more than 500,000 people have died from starvation or the war, and today more than 5 million people are at risk of starvation. The government, however, refuses to admit that there is a food supply problem. In fact, in 1990 it traded 300,000 tons of grain to Libya and Iraq for arms, and in 1991 again exported grain.

Western governments and nongovernmental organizations have tried to avert famine, despite the obstacles raised by both the government and the rebels. In frustration, however, the European Community has halted even humanitarian aid. The United States has also curtailed humanitarian assistance, although less systematically.

Washington, however, was Sudan's major backer from 1969 through 1985, viewing it as a counterweight to Libya and Soviet-backed Ethiopia. Between 1975 and 1985, the United States provided \$1.5 billion in economic and military aid. Nonhumanitarian assistance to the government of Sudan was halted only in February 1990. In fact, some critics have charged that the Bush administration acted only after, and in large measure because, Sudan backed Iraq in the Gulf War.

Contrast this with the U.S. intervention in northern Iraq last year. Far more Sudanese have perished and are at risk than Kurds. The United States, however, can barely muster any public criticism of Sudan's government, while it has gone to truly extraordinary lengths on behalf of Iraq's Kurds.

The security zone in northern Iraq owes its existence largely to political, not humanitarian or human rights, considerations. It is an exception that proves the rule of inaction, not an emerging model of humanitarian politics.

I do not mean to suggest that formulating international human rights policy in cases of nationalist conflict is easy. All international human rights issues are inherently problematic in a world structured around sovereign states. Questions of self-determination are perhaps the most problematic of all, because they are about defining the very units that are entitled to participate in international relations. Claims of self-determination also raise the question of defining the community within which human rights are to be pursued and protected. It is unclear whether foreign actors have a right to do anything at all beyond encouraging the peaceful resolution of disputes and attempting to moderate the severity of conflicts that led to violence. And even if they do have a right to become involved, foreign actors are in a particularly weak position to deal with this major threat to human rights.

Market Reforms, Economic Crisis, and Human Rights

The global wave of market-oriented economic reforms presents another significant challenge to human rights in the post-Cold War world. The failure of command economies obviously played a major part in the fall of the Soviet empire. In much of the Third World as well, developmental dictatorships have seen their legitimacy evaporate as their economies floundered. The failures of command economies, however, should not blind us to the human rights problems that markets create or exacerbate.

Markets are structured to respond not to human needs but to the interests and demands of those with “market power” (income, wealth, and information). Although markets may be more efficient and may produce more overall, they do not necessarily produce more for all. In fact, free markets typically produce gross inequalities in income, wealth, and living conditions. Economic and social human rights, by contrast, are concerned with distributing certain basic goods, services, and opportunities to each and every person. They do not seek aggregate efficiency—assuring the greatest total production with a given quantity of resources—but individual equity.

In Central and Eastern Europe, we are already beginning to see some of the negative human rights consequences of markets. Consider unemployment. The systematic underemployment of the communist years was neither attractive nor efficient, but to many Eastern and Central Europeans, it is beginning to seem preferable to widespread unemployment.

Or consider health care. Although Soviet-bloc citizens had to provide gifts, gratuities, and bribes to doctors and other health-care workers in order to get better quality care, most people had guaranteed access to most of the health-care system. The imposition of market-based health care systems will likely lead to price rationing that will exclude many who previously were able to obtain care. The United States, a much wealthier society, presents a dismal example of the consequences of letting markets allocate health care.

In the Third World, with country after country signing on to market-oriented structural adjustment programs at the insistence of the International Monetary Fund and other foreign lenders, social services are being cut from already inadequate levels, with dire consequences for living standards. Even if the costs of structural adjustment are primarily temporary, as their defenders usually assert, these costs are steep, and weigh most heavily on women, the poor, the elderly, and the disadvantaged. Furthermore, even if the transition to a market-oriented economy proves successful, there is no guarantee that large numbers of people will not be left behind. And, of course, there is no guarantee that structural adjustment will actually create the more efficient, productive economies promised, or that there will be any real social payoff for the massive sacrifices forced on the poor and disadvantaged in the name of aggregate efficiency.

Nonetheless, it may be the case that the efficiency of markets may be essential to creating enough to go around in a reasonably short period of time, especially in conditions of absolute scarcity. There may be no realistic choice other than radical privatization of the economy and social services. But not all privatizations are created equal from a human rights perspective. For example, if state-controlled resources are simply sold off at bargain basement prices to the already rich and powerful (as has already happened in a number of countries), privatization is likely to result in a grossly unfair distribution of wealth and resources that will undermine economic and social human rights. Even in instances where markets open new paths of social mobility, they are, from a human rights perspective, the lesser evil, not an intrinsic good.

U.S. policymakers, who often seem infused with enthusiasm for an unfettered market, need to keep these troubling realities in mind. With all the recent talk of keeping the state at bay and letting markets run free, we tend to forget how heavily American and European governments are involved at home in regulating markets and attempting to counteract the social inequities they produce. Marx may have been wrong about many things, but he was brutally accurate about the consequences of “free”

markets for workers. Unless we keep this firmly in mind, markets may become a new ideological justification for human rights abuses. For example, in Pinochet's Chile in the 1970s, privatization and free markets were a central element in the assault on workers and the poor. Likewise, in the 1990s, it is not hard to imagine "free markets" becoming the banner for new attacks on Central American peasant and working class organizations, which have long been the principal targets of state repression in the region.

Market reforms are also likely to foster social discontent and thus strengthen the appeal of demagogues, would-be dictators, and supporters of the old regime. And when radical market reforms take place in an environment of economic crisis and failure, the threat to human rights is likely to be especially severe.

Economic failure tends to weaken whatever government is in power. In the 1980s this worked in favor of human rights, for it helped to undermine numerous repressive regimes. Today, however, economic crisis threatens many newly liberalized and democratic regimes and the progress they have made on human rights issues. These dangers are particularly great because in numerous countries the underlying economic problems that contributed to the collapse of the old regime persist. Furthermore, in many countries national economic problems are exacerbated by international economic forces largely beyond the control of any government.

Restoring—or in some countries, initially instituting—civil and political rights may yield sufficient legitimacy to help a new government ride out even severe economic problems. For example, despite Argentina's deteriorating economy, Raul Alfonsín in July 1989 became the first elected president in Argentine history to complete his term of office and turn over the presidency to an elected successor from an opposing party. If a government can create a sense that it is acting decisively and with some prospect of success, it may also increase its perceived legitimacy. Carlos Menem, Alfonsín's successor, would seem to be the beneficiary of such a process, despite the harsh economic reforms he has imposed. If a human rights-oriented political culture does develop and become institutionalized, the prospects are even more promising. Nonetheless, with virtually all new democracies and recently liberalized regimes today facing severe economic problems, it would be dangerous to underestimate their vulnerability.

This would seem to be one area in which external assistance could have a significant positive impact. Although foreign actors can usually play only a supporting role in establishing rights-protective regimes, at crucial turning

points the right kind of external support can indeed make a difference. For example, foreign technical and financial assistance can have a direct impact on economic and social human rights, as well as help to strengthen new governments whose legitimacy is likely to be enhanced by demonstrated economic efficacy.

Achieving a real impact, however, will require more than just words of encouragement and rechanneling aid already appropriated. It requires a willingness to pay for further international human rights achievements. No state, and certainly not the United States, seems willing to make the sizable financial investment required.¹⁵ Even forgiving past debt, let alone providing substantial new resources, appears to be beyond what most countries are willing to do. Simply maintaining U.S. foreign aid at its already pitifully low levels will require substantial work.

Opposing systematic human rights violations may have been enough in the 1970s and 1980s. Today an effective international human rights policy must include substantial positive support for new governments that have made some progress but still face serious hurdles. Unfortunately, there is no evidence that these new needs and opportunities are being seriously explored, let alone exploited by the United States or any other major international actor.

International Human Rights Policy in a Post-Cold War World

What could be done if there was the political will? On what basis should we fashion an international human rights policy for the post-Cold War world? We must begin by recognizing the considerable national and international constraints on even well-intentioned and well-designed international human rights policies. This deserves special emphasis today because the heady days of the fall of entrenched dictators are largely over (although a few, such as Deng, Castro, and Mobutu, still cling to power). The struggle has shifted to the often slow and laborious, and certainly far less exhilarating, work of building new institutions and expectations that will provide entrenched, long-run protections for internationally recognized human rights. In some countries, just being able to maintain the current level of respect for human rights will have to be counted as a great success.

The often repeated claim that “we won” the Cold War, expressed in a particularly tasteless fashion in Bush’s 1992 State of the Union Address, suggests that the international struggle for human rights is largely over. In fact, it has just begun. A continued, even redoubled, commitment to

human rights is required by the often fragile new governments in Latin America, Africa, Europe, and elsewhere. And the contribution of the international community remains important, even if secondary.

The prospects for a sustained American effort, though, are not bright. On issue after issue, public attention and U.S. foreign policy have typically lurched from crisis to crisis, punctuated by long stretches of neglect. Consider, for example, the dramatic swings in U.S. policy toward Central America over the past four decades, or the tendency for sub-Saharan Africa to be in the news only when there is a coup, famine, or civil war. In the absence of dramatic short-term successes, the likelihood that the public and government will once again lose interest in human rights issues is great. Hard economic times at home are likely to deflect attention even further.

Human rights NGOs may be able to counteract these tendencies somewhat. Over the past 15 years, groups such as Amnesty International and Human Rights Watch have become accepted as authoritative sources of information, both in the media and in important congressional committees. They have also developed networks of relationships with important legislators and staff members. There is now a significant (if severely underfunded) human rights lobby in Washington. And like other special interest groups, their attention will not be deflected by other issues, nor are their efforts likely to be sapped by partial successes.

There has also been some progress in the foreign policy bureaucracy. Human rights remains a secondary concern in the corridors of Foggy Bottom. Nonetheless, the State Department's Bureau of Human Rights and Humanitarian Affairs has grown in size and become increasingly professional. In addition, human rights monitoring has become a regular part of the activities of most U.S. embassies. Such bureaucratic entrenchment may help to mitigate the tendency toward reduced attention. Moreover, regional and international human rights monitoring systems may be able to help sustain interest and attention.

Decisive U.S. action, however, is likely to require clarifying and highlighting the moral fundamentals underlying international human rights policy. U.S. policy must recapture—or, perhaps, capture for the first time—a clear sense of the meaning and importance of the international struggle for human rights. It is not (and has never been) equivalent to the struggle against communism, which is but one model of systematic human rights violations. The struggle for human rights is about guaranteeing, through the institution of equal and inalienable rights for all persons, the conditions necessary for a life of dignity in the contemporary world. These rights

are fundamentally universal ones (even if the particular implementation of those rights may legitimately vary with time and place.)¹⁶ Systematic violations therefore demand our concern and condemnation, wherever they occur.

The consistent condemnation of human rights violations, however, is only a starting point. Sometimes, of course, more forceful action is demanded. But human rights are only one part of foreign policy. In some circumstances, other policy objectives must take priority. Political “necessity” may require or justify cooperating with a repressive regime. Even in such cases, though, we must continue to condemn—not excuse—the human rights violations that are taking place, and we must remain painfully aware of the evil with which we are consorting, or even assisting.

Foreign policy is in part a moral undertaking. It is not, however, an entirely moral enterprise. The task we face is to integrate human rights (and other moral concerns) into foreign policy, rather than occasionally tack them on, as has been the American norm. Although this is a difficult and complex political task, some orienting guidelines can be suggested.

We must make human rights a clear and explicit priority in U.S. foreign policy. The best way to do this is to treat gross and systematic violations of human rights as establishing a *prima facie* case for ending direct U.S. support of the regime in question and for reducing cultural exchanges, trade, and other voluntary cooperative ties. The United States already has adopted a similar approach with respect to states that support international terrorism or contribute to the proliferation of nuclear weapons. There is no good reason not to do the same for international human rights.

A presumption against friendly relations with repressive regimes would shift the burden of proof in policy debates. The terms of the debate would change. The question would no longer be whether the human rights situation was so bad that we can no longer allow business as usual, but rather whether other, precisely defined interests, were sufficiently important to excuse, as an exception, cooperating with a government that systematically abuses human rights. Human rights advocates would no longer have to bear the burden of justifying any reduction in aid, support, or cooperation. This would lead to subtle, but important, changes in the policy process. For example, the Bush administration would have to make a convincing positive case for improving relations with China, rather than merely having to marshal one-third of the votes in one house of Congress to sustain any veto of legislation punishing or condemning China for its rights violations.

But establishing an initial (although rebuttable) presumption against

close relations with repressive regimes is only the first step toward integrating human rights concerns into foreign policy. Because of the realities of limited funds, time, interest, and attention, international human rights policy must be somewhat selective in its choice of countries to focus on.

Although the severity of human rights violations in a particular country must be a central concern, it should not be the sole consideration. A country should not be judged only by how its human rights record compares with that of other states or some international standard. A state's past history should also be considered, in particular recent trends with respect to human rights. For example, the drop in the number of death squad killings in Guatemala in recent years can be considered progress of sorts because it represents a reduction of substantially more than 90 percent from the number killed each year in the early 1980s. By contrast, lower levels of death squad activity would merit quite a different type of response were they to occur in Costa Rica, where death squads have been virtually unknown.

By focusing on trends, the international community will be better prepared to act before the human rights situation in a country gets entirely out of hand. Rather than wait until a particularly brutal regime is wreaking mass havoc, international human rights policies should aim at halting the descent into repression before it reaches crisis levels. Such preventative human rights diplomacy is likely to be especially important in the post-Cold War world because of the numerous risks of regression discussed above.

In choosing which countries deserve special attention, we should also consider the likely effects of our efforts. Foreign policy is not only about setting ends, but even more about matching means to those ends. The symbolic act of criticizing violations in a country where one has little or no economic or political leverage is important for at least three reasons: because it is morally demanded; because avoiding even the appearance of complicity is an important minimum objective; and because words and symbolic acts sometimes have a significant impact over the long run. Nonetheless, we should make a special effort in countries where we are more likely to have a positive and discernible impact on human rights practices over the short or medium run.

This might mean focusing attention on countries where the underlying human rights problems are comparatively less severe, and where the task of improving human rights practices thus is often less difficult. It may also mean focusing more on "friends" and countries over which we have greater influence than either "enemies" or countries over which we have

little influence. Thus Jeane Kirkpatrick's well-known criticisms of the Carter administration's "attacks" on our "friends"—such as Somoza, Pinochet, and the shah of Iran—reflected a profound misunderstanding of the character of international human rights policies. Likewise, the Reagan administration's decision to focus its "human rights" attention on Soviet-bloc countries where the United States had minimal influence, both absolutely and relatively, was perhaps the clearest sign of its merely verbal commitment to international human rights. This principle, if put into operation today, would imply that the United States should give, for example, greater attention to abuses in Zaire and the Philippines than to those in Guinea and Burma.

In choosing which countries deserve priority attention, U.S. culpability in creating or fostering rights-repressive policies or regimes should also be an important consideration. For example, the United States owed, and probably continues to owe, a special human rights debt to the post-Marcos Philippines and post-Duvalier Haiti. At the same time, past support for recently removed repressive regimes may mean that the United States lacks the moral standing to use forceful public diplomacy to press the new regimes on their human rights practices. For instance, U.S. support for racist regimes in southern Africa reduced American credibility in newly independent Zimbabwe and has greatly complicated, perhaps even compromised, U.S. policy toward South Africa today.

If the criteria of trends, potential efficacy, and prior U.S. culpability become the cornerstones of a new international human rights policy, the result will invariably be a policy that treats comparably severe violations differently in different countries. The resulting "inconsistencies," however, need not be too debilitating or troubling. In fact, they are actually necessary and desirable. True consistency means treating like cases in a like manner. "Like cases," however, cannot be specified simply by looking at the particulars of human rights violations. We must also look at other elements of the overall political situation, both national and international.

Considerations of severity, trends, influence, and responsibility suggest only rough guidelines, which may point in different directions. Nonetheless, they do provide relatively clear guidance and the basis for constructing a coherent and defensible policy. The danger, though, is that "balancing" various and at times competing considerations may degenerate into incoherent, ad hoc decisions, or even partisan inconsistency. Unfortunately, this has been, and remains, the rule in U.S. international human rights policy. Noble American rhetoric still is supported only by fitful and inconsistent practice.

Rather than join in the difficult work of consolidating and deepening recent progress in the area of human rights, the United States seems content to gloat over “winning the Cold War,” bombing Iraq into temporary submission, and praising the virtues of elections and markets. This is a significant improvement from the Cold War era, when the United States was a major contributor to human rights violations. Nonetheless, it is a culpable moral failure and a shameful betrayal of the idea of international human rights.

Notes

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¹ Speech of April 13, 1991, at Maxwell Air Force Base, *Vital Speeches of the Day*, Vol. 57, No. 15, May 15, 1991, pp. 450–452.

² Human rights are ordinarily understood as the rights that one has simply because one is a human being. In contemporary international relations, human rights have a special reference to the ways in which states treat their own citizens in their own territory. It is therefore conventional to distinguish, for example, international terrorism, war crimes, muggings, gangland violence, and drought-caused famine from “human rights” issues, even though they also lead to denials of life and security. I will adopt this relatively narrow focus here, both because it corresponds to standard usage and because it focuses our attention on a central problem of national and international politics.

³ By antihumanitarian intervention I mean intervention that supports or establishes governments engaging in gross and systematic violations of internationally recognized human rights. In other words, it is the opposite of the familiar notion of “humanitarian intervention,” that is, intervention, typically including the use of military force, to rescue people from imminent danger, usually as a result of gross and systematic human rights violations.

⁴ Perhaps the best expression of this view is Adamantia Pollis, “Liberal, Socialist, and Third World Perspectives of Human Rights,” in Peter Schwab and Adamantia Pollis, eds., *Toward a Human Rights Framework* (New York: Praeger, 1982). A revised version, updated in light of recent events, will appear in Richard P. Claude and Burns Weston, eds., *Human Rights in the World Community*, Second Edition (Philadelphia: University of Pennsylvania Press, 1992).

⁵ In fact, of course, this was hardly an accurate description of European human rights ideas or practices. It did have a certain plausibility for the United States, especially in the 1950s and 1980s. The United States, however, has been and remains an embarrassing anomaly, rather than an exemplar of the Western approach to economic, social, and cultural rights.

⁶ For an excellent review of the activities of the Commission on Human Rights over its first 40 years, see Howard Tolley, Jr., *The U.N. Commission on Human Rights* (Boulder, CO: Westview Press, 1987).

⁷ For an overview of this global human rights regime, see Jack Donnelly, *Universal Human Rights in Theory and Practice* (Ithaca: Cornell University Press, 1989), chapter 11, or David P. Forsythe, *Internationalizing Human Rights* (Lexington, MA: Lexington Books, 1991), chapter 3. It should be noted, though, that the United States has refused to become a party to any of these treaties, for reasons discussed later in this article.

⁸ For comparative overviews of regional human rights regimes, see Donnelly, *ibid.*, and Burns H. Weston, Robin Ann Lukes, and Kelly M. Hnatt, "Regional Human Rights Regimes: A Comparison and Appraisal," in Claude and Weston (fn. 4). On the African regional regime, about which very little information has been published, see the forthcoming article by Claude Welch in *Human Rights Quarterly*.

⁹ Sanctions against South Africa may come close to being an exception (although only for Britain and the frontline states of Africa did they involve significant costs). Even this isolated instance, however, required more than a quarter of a century of intense national and international political action before the sanctions campaign showed any real success.

¹⁰ These changes in the character of power, however, long predate the end of the Cold War. See, for example, Robert O. Keohane and Joseph S. Nye, *Power and Interdependence: World Politics in Transition* (Boston: Little Brown, 1977).

¹¹ *Vital Speeches of the Day* (fn. 1).

¹² This is a fairly common definition of formal or institutional democracy. It should not be confused with what might be called substantive democracy (which has been variously characterized as involving an egalitarian distribution of power, opportunities, or goods), and is much closer to what I call a rights-protective regime.

¹³ Niccolò Machiavelli, *The Discourses* (Harmondsworth: Penguin Books, 1970), p. 153.

¹⁴ This is not exactly correct, the principal widely accepted exception being the incarceration of convicted criminals. My point is that the guilty have the same rights to due process, and these rights must be respected even if it means that some guilty people evade legal punishment for their crimes.

¹⁵ Only in the former GDR has there been a massive influx of money, an "exception" that in fact strongly confirms the rule of no major increase in *foreign* assistance.

¹⁶ For an extended discussion of the problem of reconciling the moral universality of human rights with their undeniable historical particularity and the varied circumstances facing different countries in the contemporary world, see Donnelly (fn. 7), chapters 3, 6, 7, and 8.